

CONTRACT #6
RFS # 359.62-031

**Department of Children's
Services**

VENDOR:
Vanderbilt University

REQUEST: NON-COMPETITIVE AMENDMENT

APPROVED

Commissioner of Finance & Administration

Date:

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED

RECEIVED

APR 18 2006

FISCAL REVIEW

EXISTING CONTRACT INFORMATION

1) RFS #	359.62-031-06
2) State Agency Name :	Department of Children's Services
3) Service Caption :	Sex Offender Treatment at Woodland Hills Youth Development Center (WHYDC) and New Visions Youth Development Center (NVYDC)
4) Contractor :	Vanderbilt University
5) Contract #	FA-06-16491
6) Contract Start Date :	July 1, 2005
7) <u>Current</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	June 30, 2010
8) <u>Current</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$680,000.00

PROPOSED AMENDMENT INFORMATION

9) <u>Proposed</u> Amendment #	One
10) <u>Proposed</u> Amendment Effective Date : (attached explanation required if date is < 60 days after F&A receipt)	April 1, 2006
11) <u>Proposed</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	June 30, 2010
12) <u>Proposed</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$875,794.00
13) Approval Criteria : (select one)	<input checked="" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service

14) Description of the Proposed Amendment Effects & Any Additional Service :

Additional Services are not being procured. The contractor will continue to provide the same services described in the initial contract. Service levels at WHYDC have exceeded those levels anticipated when the original contract was awarded. The increased maximum liability will allow WHYDC student residents to continue receiving these essential services. This resubmitted amendment request will remove the specifically stated bed capacity of each facility, delete the contract language identifying specific annual liabilities and increase the maximum liability to cover projected expenditures for the remaining contract. This will allow DCS greater flexibility in the

future to reallocate unspent funds from previous contract years.

15) Explanation of Need for the Proposed Amendment :

A review of the projected service levels to date for this fiscal year, indicate that the monies originally budgeted for these services will not adequately cover the remainder of the fiscal year. An amended increase in the contracts' maximum liability is required. The following factors impact this increase. WHYDC is experiencing projected service levels that are exceeding current budgeted amounts by \$35,000.00 for FY 2006. NVDYDC, the new DCS youth development center for females is currently experiencing service levels within the allocated amount for FY 2006. However it is anticipated that the NVDYDC student population will increase from the present number of twenty-four female student residents to thirty-six by June 30, 2006. A future reduction in service levels is not anticipated. To ensure that the maximum liability is adequate, DCS must add \$35,000.00 per year for FY 2006 and 2007, plus an additional 2% increase for the last three years of the contract term. Also should future fiscal years experience be lower than budgeted service levels, the amendment as worded would allow DCS to roll forward and reallocate funds as necessary.

16) Name & Address of Contractor's Current Principal Owner(s) :

(not required if proposed contractor is a state education institution)

Vanderbilt University
Department of Psychiatry
1500 21st Avenue South Ste 2200
Nashville, Tennessee 37212

17) Documentation of Office for Information Resources Endorsement :

(required only if the subject service involves information technology)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

18) Documentation of Department of Personnel Endorsement :

(required only if the subject service involves training for state employees)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

19) Documentation of State Architect Endorsement :

(required only if the subject service involves construction or real property related services)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

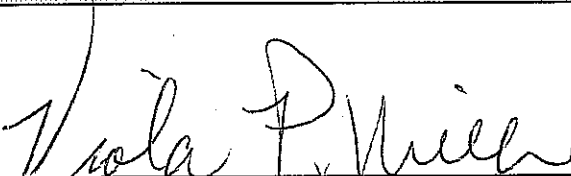
No other efforts have been attempted to identify procurement alternatives as this service was procured by competitive procurement in the spring of 2005.

21) Justification for the Proposed Non-Competitive Amendment :

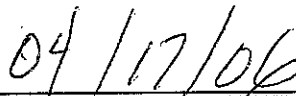
The specific services detailed in this contract are, unfortunately, a frequent problem of many student residents. Non-approval of the requested increase would mean that children with a history of sex offenses would not have those issues treated while in the WHYDC facility.

REQUESTING AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR—signature by an authorized signatory will be accepted only in documented exigent circumstances)



Agency Head Signature



Date

Earlier in the calendar year, DCS began efforts to amend certain professional services contracts at the WHYDC facilities that needed their liabilities amended due to greater than expected utilization levels. However, while engaged in the process we were also made aware that NVYDC was expecting an increase in the student population, which would require amendments of additional contracts as well as those on which work had already begun. Since both facilities share the same contractors, both were asked to coordinate the liability reviews of their professional services contracts. The compilation of necessary information was completed in time for DCS to submit the request and be scheduled on the March 20, 2006 FRC agenda. The March 20th FRC meeting resulted in the approval of the original amendment request and three others.

However, during the meeting, discussion ensued that generated a review of the DCS policy of specifying the annual liabilities of multi-year contracts in the contract document. This effort plus a misstatement regarding bed capacity at NVYDC, has required DCS to resubmit several amendment requests. DCS could not resubmit until a review of DCS policy could be conducted and an analysis of each contracts' liability needs could be performed.

The original requests contained April 1, 2006 as the effective start date. The unforeseen necessity to reevaluate DCS policies and the expenditures by allotment code for each contract has created a necessary but unexpected further delay in expediting this amendment. Consequently, we need to retain the original effective date of April 1, 2006 and are respectfully requesting immediate approval of this resubmitted request.

Your assistance is greatly appreciated.

**AMENDMENT ONE
TO CONTRACT FA-06-16491
BETWEEN THE STATE OF TENNESSEE
DEPARTMENT OF CHILDREN SERVICES
WOODLAND HILLS AND NEW VISIONS
YOUTH DEVELOPMENT CENTERS
AND
VANDERBILT UNIVERSITY**

This Contract, by and between the State of Tennessee, Department of Children Services (DCS), Woodland Hills and New Visions Youth Development Centers, hereinafter referred to as the "State" and Vanderbilt University, hereinafter referred to as the "Contractor", is hereby amended as follows:

1. Delete Section A.1. in its entirety and insert the following in its place:

A.1. The Contractor agrees to perform the following gender separate services for female student residents at New Visions Youth Development Center student(s) male student residents at Woodland Hills Youth Development Center upon DCS request.

2. Delete Section C.1. in its entirety and insert the following in its place:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Eight Hundred Seventy-five Thousand, Seven Hundred and Ninety-four Dollars (\$875,794.00). ~~The Payment Rates in Section C.3 shall constitute the entire compensation~~ due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Payment Rates include, but are not limited to, all applicable taxes, fees, overheads, profit, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with Payment Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

The other terms and conditions of this Contract not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF:

Vanderbilt University:

Michael Cull, APRN

Date

Department of Children's Services:

Viola P. Miller, Commissioner

Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. Goetz, Jr., Commissioner

Date

COMPTROLLER OF THE TREASURY:

John G. Morgan, Comptroller of the Treasury

Date

CONTRACT SUMMARY SHEET

RFS Number:	359.62-031	Contract Number:	FA-0616441-00
State Agency:	Department of Children's Services	Division:	Contracts Administration

Contractor:	Vanderbilt University	Contractor Identification Number:	620476822-07
		<input checked="" type="checkbox"/> V-	
		<input type="checkbox"/> C-	

Service Description:	Sex Offender Program
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Contract Begin Date:	July 1, 2005	Contract End Date:	June 30, 2010
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Allocation Code:	Cost Center:	Object Code:	Fund:	Grant:	Grant Code:	Subgrant Code:
Sup	550			<input type="checkbox"/> on STARS		

FY	State Funds	Federal Funds	Interdepartmental Funds	Other Funding	Total Contract Amount (including ALL amendments)
2006	\$136,000.00				\$136,000.00
2007	\$136,000.00				\$136,000.00
2008	\$136,000.00				\$136,000.00
2009	\$136,000.00				\$136,000.00
2010	\$136,000.00				\$136,000.00
Total	\$680,000.00				\$680,000.00

CFDA #		Check the box ONLY if the answer is YES:
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State Fiscal Contact:	Is the Contractor a SUBRECIPIENT? (per OMB A-133)	
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Name:	Joe Cimino	Is the Contractor a VENDOR? (per OMB A-133)	x
Address:	7 th Floor Cordell Hull Bldg Nashville, TN 37243	Is the Fiscal Year Funding STRICTLY LIMITED?	x
Phone:	615-741-6304		

Procuring Agency Budget Officer Approval Signature:	Is the Contractor on STARS?	x
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	Is the Contractor's FORM W-9 ATTACHED?	
	Is the Contractor's Form W-9 Filed with Accounts?	x

COMPLETE FOR ALL AMENDMENTS (only)	Funding Certification
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END DATE →	Base Contract & Prior Amendments	This Amendment ONLY	Pursuant to T.C.A., Section 9-6-113, I, M. D. Goetz, Jr., Commissioner of Finance and Administration, do hereby certify that there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred.
FY			
FY			
FY			
FY			
FY			
Total:			

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 COMPTROLLER'S OFFICE
 OFFICE OF
 MANAGEMENT SERVICES

SEP - 6 2005

DIRECTOR OF ACCOUNTS

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number RFS 359.62-031

Fiscal Year 2006

Allocation Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
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35962	550	134	11				\$111,000.00
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35964	550	134	11				\$25,000.00
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TOTAL

\$136,000.00

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number

RFS 359.62-031

Fiscal Year

2007

Allocation
Code

Cost Center

Object Code

Fund

Grant Code

Subgrant
Code

CFDA #

Amount

35962

550

134

11

\$111,000.00

35964

550

134

11

\$25,000.00

TOTAL

\$136,000.00

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number:	RFS 359.62-031
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Fiscal Year	2008
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[illegible]

CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number	RFS 359.62-031
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Fiscal Year	2009
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Allocation Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
35962	550	134	11				\$111,000.00
35964	550	134	11				\$25,000.00
TOTAL							\$136,000.00

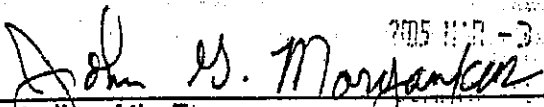
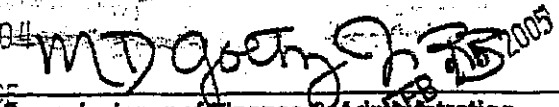
CONTRACT SUMMARY SHEET SUPPLEMENT

Contract Number	RFS 359.62-031
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Fiscal Year	2010
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[illegible]

REQUEST: ALTERNATIVE PROCUREMENT METHOD

APPROVED  Comptroller of the Treasury Date: 3-8-05	RECEIVED 2005 FEB -3 AM 11:04 APPROVED w/ deletion noted on page 2  Commissioner of Finance & Administration Date: FEB 25 2005
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Note: Comptroller approval is required for an Alternative Competitive process that will result in a contract requiring the approval of the Comptroller.

Each of the request items below indicates specific information that must be individually detailed or addressed as required. A REQUEST CAN NOT BE CONSIDERED IF INFORMATION PROVIDED IS INCOMPLETE, NON-RESPONSIVE, OR DOES NOT CLEARLY ADDRESS EACH OF THE REQUIREMENTS INDIVIDUALLY AS REQUIRED.	
RFS #	359.62-031
STATE AGENCY NAME:	Department of Children's Services
SERVICE CAPTION:	Treatment Services – Sexually Abused Victims and Sex Offenders -
CONTRACT START DATE: (If date is < 60 days after F&A receipt, attach required explanation)	July 1, 2005
LATEST POSSIBLE END DATE: (Including ALL options to extend)	June 30, 2010
TOTAL MAXIMUM COST: (Including ALL options to extend)	\$680,000.00 (five year term)
ADDITIONAL REQUIRED REQUEST DETAILS BELOW (address each item immediately following the requirement text)	
(1) description of service to be acquired:	
Provide gender separate Treatment Services for Sexually Abused Victims and Sex Offenders at Woodland Hills Youth Development Center, (WHYDC) for up to 120 males on the original campus and also 24 female resident students housed in the New Visions facility for females.	
(2) justification for using an Alternative Procurement Method rather than an RFP:	
The procurement of treatment services of the sexually abused and sexual perpetrators for WHYDC student residents is not a new or unknown service to this department. These services are a critical component to the YDC array of services for children having personal histories that require this treatment approach. These services are not temporary in nature, as it is a required service component within the YDC array of services. DCS fully understands these services as required within the parameters of this contract. State law specifies the credentials and qualifications of those individuals capable of providing these services, thus defining for the purposes of procurement, individuals that are minimally qualified to perform these services. Unlike the RFP process, DCS does not need to require potential bidder(s) to provide the level of information that would be necessary to educate DCS about this service technology and the proposers understanding and capabilities to provide the service. It is hoped that the use of the alternative competitive method, in lieu of the time consuming RFP process, will also remove any potential barriers to bidding that an RFP might generate, and will thus encourage more providers to submit bids.	
(3) proposed alternative procurement procedures and contractor selection criteria:	
1) Identification of Potential Contractors DCS will identify potential Contractors in the immediate and surrounding area(s) of WHYDC potential bidders	

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will be identified through the State Service Provider Registry, professional contacts known to WHYDC staff, phone directory listings and professional associations/organizations, and various internet websites.

Bid Packets will be sent to each interested vendor. Should the number of potential vendors be limited, bid packets will be sent to all vendors on the list. Should the number of potential vendors identified be significant, DCS will send out a letter of inquiry requesting that they declare an interest in receiving a bid packet. Each prospect will be sent a bid packet and invited to bid in an effort to receive the contract award. Bid packets will contain: instructions detailing the submission of bids; a description of the submission requirements; a copy of the Sample Contract, and a Proposers Bid Sheet.

2) Each bidder must also submit:

- ❖ a brief and complete description of their experience in providing these or similar services outlined in the sample contract's scope of services, including copies of certificates and licenses qualifying them to provide these services;
- ❖ a listing of at least three references with whom the bidder has previously contracted to provide comparable services;
- ❖ a copy of the completed bid sheet containing bids for each service item listed.
- ❖ a description detailing how services are to be provided

2.a. Should the bidder also plan to utilize other individuals to provide services, they will need to submit:

- ❖ a brief and complete description of their experience in providing similar services
- ❖ copies of certificates or licenses for each individual identified other than the bidder.

3) Evaluation of Submitted Bidder Packets:

3.a. A team of three DCS employees will review the response documentation from each bidder. In order for a bid to be accepted for further evaluation, the DCS evaluators must determine that a bidder's documentation of qualifications indicates that the bidder would be at least minimally acceptable as a contractor for the given service. The DCS evaluator determinations regarding each bidder will be documented in writing for the procurement file.

3.b. A procurement coordinator will review the cost proposal (bid sheet) for each bidder found by evaluators to be at least minimally acceptable. The coordinator will determine if the cost proposal complies with bid packet instructions without qualification and will document in writing any finding to the contrary for the procurement file.

3.c. The procurement coordinator will then review all compliant bid sheets. ~~The cost proposal will be evaluated and scored using the same concept as an RFP.~~ The procurement coordinator will then identify the bidder offering the lowest cost to the State and DCS will award the contract (exactly as detailed in the bid packet and drafted in accordance with relevant F & A regulations)

4) Staff Qualifications for these services are as follows:

Group and Individual Therapy services, must be provided by a Tennessee Licensed Mental Health Professionals with at least a Doctoral degree, and/or by trained and qualified Master's level Mental Health Professionals who receive ongoing clinical supervision from a Tennessee Licensed Mental Health Professional, and/or by students who are matriculated in a Masters level mental health training program and are registered for practicum or internship placement and have appropriate and ongoing clinical supervision from a Tennessee Licensed Mental Health Professional.

5) The successful Contractor must be willing to provide the following services

- ❖ Provide individual and group therapy/counseling/treatment for sexually abused victims and sexual offenders, sexual dysfunction, and adjustment disorders.
- ❖ Crisis intervention-on call 24 hours a day seven days a week service either through phone consultation or site visit. Contractor will be responsible for providing office, cell, pager, or other number where the institution may reach contractor.

**Deleted as a condition of approval* *12/15/2005*

❖ Case Consultation by a licensed therapist

(4) documentation of OIR endorsement of the Non-Competitive procurement request :
(required only if the subject service involves information technology)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

(5) documentation of Department of Personnel endorsement of the Non-Competitive procurement request :
(required only if the subject service involves training for state employees)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

AGENCY HEAD REQUEST SIGNATURE:
(signed by the procuring agency head or
authorized signatory)

Viola P. Miller / #WS

SIGNATURE DATE

2-23-05

CONTRACT
 BETWEEN THE STATE OF TENNESSEE,
 DEPARTMENT OF CHILDREN SERVICES
 WOODLAND HILLS AND NEW VISIONS
 YOUTH DEVELOPMENT CENTERS
 AND
 VANDERBILT UNIVERSITY

This Contract, by and between the State of Tennessee, Department of Children Services (DCS), Woodland Hills Youth Development Center, hereinafter referred to as the "State" and Vanderbilt University, hereinafter referred to as the "Contractor," is for the provision of Treatment of Sexually Abused Victims and Sexual Offenders, as further defined in the "SCOPE OF SERVICES."

The Contractor is a nonprofit educational institution. The Contractor's address is:

Department of Psychiatry
 1500 21st Avenue South Ste 2200
 Nashville, Tennessee 37212

The Contractor's place of incorporation or organization is Tennessee.

A. SCOPE OF SERVICES:

A.1. The contractor agrees to perform the following gender separate services for up to 24 female New Visions Student(s) and 120 male student(s) at Woodland Hills Youth Development Center upon request from DCS.

A.1.a Provide all needed therapy services to include individual, family and group therapy/counseling/treatment for students who have been identified as having engaged in sexually abusive behaviors. Focus on services will include the sexually abusive behavior as well as addressing other identified clinical needs including emotional and behavioral issues.

A.1.a.1 Services must be provided by Qualified Mental Health Professionals, with at least a Master's degree, possessing a license issued by the State as required for the following professionals, Psychiatrist, (a physician with expertise in psychiatry) as determined by training, education, or experience; Psychologist with health service provider (HSP) designation; Senior Psychological Examiner; Social Worker who is certified or licensed; Licensed Professional Counselor with Mental Health Service Provider Designation; or: by trained and qualified Master's level Mental Health Professionals who receive ongoing clinical supervision from a Licensed or Certified Qualified Mental Health Professional, or: by students who are matriculated in at least a Masters level mental health training program and are registered for practicum or internship placement and have appropriate and ongoing clinical supervision from a Licensed or Certified Qualified Mental Health Professional with experience in working with this specialty population.

A. 1.b Crisis intervention-on call 24 hours a day seven days a week service either through phone consultation or site visit. Contractor will be responsible for providing office, cell, pager, or other number where the institution may reach contractor.

A.1.c. Case Consultation by a licensed therapist. The therapist for the Sex Offender Program would be involved in staffings and clinical meetings related to the care of the students in the program. Therapists may at times have an active role in preparing documents related to transfer, release and other clinical situations. Therapist will also provide appropriate, timely documentation

of all therapies to be filed in the student's master file and will also provide documentation for utilization in the students Individual Program Plan. Therapists involved in the program may also be requested to be involved in staff training type services.

- A.2. Comply with all applicable policies and procedures as found in the Department of Children's Services Policy and Procedures Manual
- A.3. All supplies will be furnished by the Contractor. The contractor further agrees to provide necessary resources to provide the following services within the time restraints as may be required by DCS Policy.
- A.4. The Contractor shall invoice DCS monthly for services provided. Such invoices shall be submitted to DCS not later than thirty (30) days after the end of the month in which service was rendered.

B. CONTRACT TERM:

- B.1. Contract Term. This Contract shall be effective for the period commencing on July 1, 2005 and ending on June 30, 2010. The State shall have no obligation for services rendered by the Contractor, which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed six hundred eighty thousand dollars (\$680,000.00). The Payment Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Payment Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Payment Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The Payment Rates and the Maximum Liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the Payment Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor shall be compensated based upon the following Payment Rates:

Fiscal Years	Service(s)		Payment Rate(s) per hour		
	2006	2007	2008	2009	2010
Individual Therapy (Licensed)	\$50.00	\$50.00	\$55.00	\$55.00	\$55.00
Individual Therapy (Non-Licensed)	\$40.00	\$40.00	\$45.00	\$45.00	\$45.00
Group Therapy (Licensed)	\$115.00	\$115.00	\$120.00	\$120.00	\$120.00
Group Therapy (Non-Licensed)	\$75.00	\$75.00	\$80.00	\$80.00	\$80.00
Staff Training	\$25.00	\$25.00	\$25.00	\$25.00	\$25.00
Case Consultation	\$45.00	\$45.00	\$50.00	\$50.00	\$50.00

The Contractor shall not be compensated for travel time to the primary location of service provision.

The Contractor shall submit monthly, gender separate invoices, (Attachments A & B) for completed work, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall, at a minimum, include the name of each individual, the individual's job title, the number of hours worked during the period, the applicable Payment Rate, the total compensation requested for the individual, and the total amount due the Contractor for the period invoiced.

- C.3.a If the Contractor fails to comply with the provisions of Section A.4 of the Scope of Services, the Contractor shall forfeit payment for those services.
-
- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.
- C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.3.a The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the contractor for compensation for any service, which has not been rendered.
- D.3.b Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. ~~Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.~~
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Records. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three

(3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

- D.9. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

- D.13. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.14. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.
- D.15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.18. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall

remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

- D.19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:

David Mark McFarlin
Woodland Hills Youth Development Center
3965 Stewarts Lane
Nashville, TN 37243
Telephone: (615) 532-2003
Facsimile: (615) 5328402

The Contractor:

Thomas Catron
1500 21st Avenue South
Ste 2200
Nashville, TN 37212
Telephone: 615-322-2028
Facsimile: 615-322-1578

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received,

reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.

E.5. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, and entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

E.6. Public Funding Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Contractor relative to this Contract shall include the statement, "This project is funded under an agreement with the State of Tennessee." Any such notices by the Contractor shall be approved by the State.

E.7. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed.

E.8. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

~~E.9. HIPAA Compliance.~~ The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.

- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this contract.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the contract so that both parties will be in compliance with HIPAA.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.

E.10. Public Accountability. If this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor agrees to display a sign stating:

"NOTICE: This Contractor is a recipient of taxpayer funding. If you observe an employee engaging in any activity which you consider to be illegal or improper, please call the State Comptroller's toll free hotline: 1-800-232-5454"

Said sign shall be displayed in a prominent place, located near the passageway(s) through which the public passes to receive State funded services.

E.11. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.

E.12. Date/Time Hold Harmless. As required by *Tennessee Code Annotated*, Section 12-4-118, the contractor shall hold harmless and indemnify the State of Tennessee; its officers and employees; and any agency or political subdivision of the State for any breach of contract caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort or otherwise process dates or times.

E.13. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System, provides that if a retired member returns to State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of


the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to the Tennessee Consolidated Retirement System the amount of retirement benefits the Contractor received from the Retirement System during the period of this Contract.

E.14. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it and its principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.
-

IN WITNESS WHEREOF:

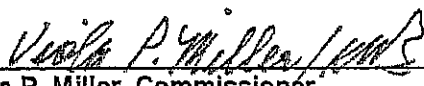
Vanderbilt University:


Jeff Kaplan, Vice Chancellor, Health Affairs

Date

8-1-05

Department of Children's Services:



Viola P. Miller, Commissioner

Date

8-8-05

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:


M. D. Goetz, Jr., Commissioner

Date

8/25/05

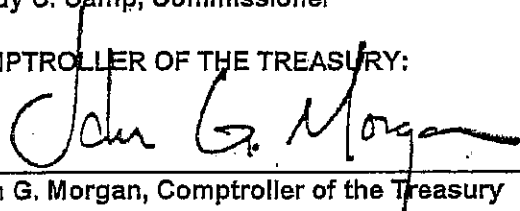
DEPARTMENT OF PERSONNEL:

NOT APPLICABLE

Randy C. Camp, Commissioner

Date

COMPTROLLER OF THE TREASURY:


John G. Morgan, Comptroller of the Treasury

Date

8/31/05

Attachment A

359.64



STATE OF TENNESSEE
DEPARTMENT OF CHILDREN'S SERVICES
Cordell Hull Building, 8th Floor
436 Sixth Avenue North
Nashville, Tennessee 37243-1290

FEE-FOR-SERVICE INVOICE
CONTRACTOR INVOICE NUMBER _____

CONTRACTOR INVOICE NUMBER

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[illegible]

AUTHORIZATION:

CONTRACTOR SIGNATURE:

DATE

PHONE #

CONTRACTOR SIGNATURE

DATE _____ PHONE # _____ () _____

CSA SIGNATURE AUTHORIZATION	DATE	PHONE #	PRINT NAME OF SIGNED
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DCS FISCAL USE ONLY

I hereby certify, to the best of my knowledge, the accuracy of the information provided in this invoice, that the amounts billed have not been previously requested and are in accordance with the contract terms and conditions.